

## DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

METHOD FOR TREATING RESPIRATORY DISTRESS SYNDROME

the specification of which:

(check one) ☒ is attached hereto  
☐ was filed on  
as Application Serial No.  
and was amended on \_\_\_\_\_  
(if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56\*

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)			priority claimed	
(Number)	(Country)	(Day/Month/Year Filed)	yes	no
_____	_____	_____	_____	_____
(Number)	(Country)	(Day/Month/Year Filed)	yes	no

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

_____	_____	_____
(Application Serial No.)	(Filing Date)	(Status: patented, pending, abandoned)

and any continuation applications thereof currently pending.

Power of Attorney: As a named inventor, I hereby appoint C. Lamont Whitham, Reg. No. 22,424, Marshall M. Curtis, Reg. No. 33,138, Michael E. Whitham, Reg. No. 32,635, Philip D. Lane, Reg. No. 41,140 and Nancy J. Jensen, Reg. No. 45,912, as attorneys and/or agents to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. All correspondence should be directed to McGuireWoods, One James Center, 901 East Cary Street, Richmond, Virginia 23219-4030. Telephone calls should be directed to Nancy J. Jensen, Ph.D. at McGuireWoods at 804-775-1174.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of Sole  
or First Inventor Vicky L. Funanage, Ph.D.  
Inventor's Signature Vicky L. Funanage, Ph.D. Date 11/13/00  
Residence 2403 Landon Drive, Wilmington, Delaware 19810  
Citizenship United States  
Post Office Address Same as above

Full Name of Joint  
or Second Inventor Sandra G. Hassink, M.D.  
Inventor's Signature Sandra G. Hassink MD Date 11/13/00  
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Citizenship United States  
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Full Name of Joint  
or Third Inventor Susan M. Kirwin, B.S.  
Inventor's Signature Susan M. Kirwin Date 11/13/00  
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Full Name of Joint  
or Fourth Inventor Darlise O'Connor, B.S. B.A.  
Inventor's Signature Darlise O'Connor Date 11/13/00  
Residence 103 Jupiter Road, Newark, Delaware 19711  
Citizenship United States  
Post Office Address Same as above

Title 37, Code of Federal Regulations, § 1.56:

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith toward the Patent and Trademark Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and (1) it establishes, by itself or in combination with other information, a prima facie case of unpatentability; or (2) it refutes, or is inconsistent with, a position the applicant takes in: (i) opposing an argument of unpatentability relied on by the Office, or (ii) asserting an argument of patentability.

**VERIFIED STATEMENT (DECLARATION) CLAIMING  
SMALL ENTITY STATUS****(37 C.F.R. §§1.9(f) and 1.27 (d)) - NONPROFIT ORGANIZATION**

I hereby declare that I am an official empowered to act on behalf of the nonprofit organization identified below:

NAME OF ORGANIZATION The Nemours Foundation

ADDRESS OF ORGANIZATION 1600 Rockland Road, Wilmington, Delaware 19899

**TYPE OF ORGANIZATION**

- (check one) ☐ UNIVERSITY OR OTHER INSTITUTION OF HIGHER LEARNING
- ☒ TAX EXEMPT UNDER INTERNAL REVENUE SERVICE CODE (26 USC 501(a) and 501(c)(3))
- ☐ NONPROFIT SCIENTIFIC OR EDUCATIONAL UNDER STATUTE OF STATE OF THE UNITED STATES OF AMERICA  
(NAME OF STATE \_\_\_\_\_)  
(CITATION OF STATUTE \_\_\_\_\_)
- ☐ WOULD QUALIFY AS TAX EXEMPT UNDER INTERNAL REVENUE SERVICE CODE (26 USC 501(a) and 501(c)(3)) IF LOCATED IN UNITED STATES OF AMERICA
- ☐ WOULD QUALIFY AS NONPROFIT SCIENTIFIC OR EDUCATIONAL UNDER STATUTE OF STATE OF THE UNITED STATES OF AMERICA IF LOCATED IN THE UNITED STATES OF AMERICA  
(NAME OF STATE \_\_\_\_\_)  
(CITATION OF STATUTE \_\_\_\_\_)

I hereby declare that the above identified nonprofit organization qualifies as a nonprofit organization as defined in 37 C.F.R. §1.9(e), for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, with regard to the invention entitled METHOD FOR TREATING RESPIRATORY DISTRESS SYNDROME by inventors Vicky L. Funanage, et al. described in

- (check one) ☒ the specification filed herewith.
- ☐ application Serial No. \_\_\_\_\_ filed \_\_\_\_\_
- ☐ Patent No. 5, \_\_\_\_\_, \_\_\_\_\_ issued \_\_\_\_\_, 199\_\_.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the above identified invention.

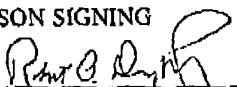
If the rights held by the above identified nonprofit organization are not exclusive, each individual, concern or organization having rights to the invention is listed below\* and no rights to the invention are held by any person, other than the inventor, who could not qualify as a small business concern under 37 C.F.R. §1.9(d) or by any concern which would not qualify as a small business concern under 37 C.F.R. §1.9(d) or a nonprofit organization under 37 C.F.R. §1.9(c). \*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 C.F.R. §1.27)

NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 C.F.R. §1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING Robert A. Doughty, M.D., Ph.D.  
TITLE OF PERSON IN ORGANIZATION Vice President of Physician Practices  
ADDRESS OF PERSON SIGNING 1650 Prudential Drive, Suite 300,  
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SIGNATURE  DATE 11/14/00

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